

**PART VI.
COMPLAINTS,
DEPARTMENT
ACTIONS,
ADJUDICATION**

ARTICLE 1. Complaints

6 VAC 20-171-480. Submittal requirements.

- A. In accordance with § 9.1-141 of the Code of Virginia, this chapter establishes standards designed to secure the public safety and welfare against incompetent or unqualified persons engaging in private security services. It shall be the responsibility of the licensee, its compliance agents and employees, to provide private security services in a professional manner and ethical manner, utilizing sound business practices.
- B. Any aggrieved or interested person may file a complaint against any individual, person, firm or licensed firm, school or certified school whose conduct and activities are regulated or required to be regulated by the board. The complaint must allege a violation of the law governing private security services or this chapter.
- C. Complaints may be submitted:
 - 1. In writing, or on a form provided by the department, by a signed complainant;
 - 2. In writing, submitted anonymously, that provide sufficient detailed information for the department to conduct an investigation; or
 - 3. Telephonically, providing the complaint alleges activities which constitute a life-threatening situation, or have resulted in personal injury or loss to the public or to a consumer, or which may result in imminent harm or personal injury, and that provide sufficient detailed information for the department to conduct an investigation.

6 VAC 20-171-490. Department investigation.

- A. The department may initiate or conduct an investigation based on any information received or action taken by the department to determine compliance with the Code of Virginia and this chapter.
- B. Documentation.
 - 1. Persons regulated or required to be regulated by this chapter pursuant to the Code of Virginia are required to provide department investigators with any and all records required to be maintained by this chapter.
 - a. This shall not be construed to authorize the department to demand records protected under applicable federal and state laws. If such records are necessary to complete an investigation, the department may seek a subpoena to satisfy the request.
 - b. The department shall endeavor to review, and request as necessary, only those records required to verify alleged violations of compliance with the Code of Virginia and this chapter.
 - 2. The department shall endeavor to keep any documentation, evidence or information on an investigation confidential until such time as adjudication has been completed, at which time information may be released upon request pursuant to applicable federal and state laws, rules or regulations.

ARTICLE 2. Department Actions

6 VAC 20-171-500. Disciplinary action; sanctions; publication of records.

- A. Each person subject to jurisdiction of this chapter who violates any statute or regulation pertaining to private security services shall be subject to sanctions imposed by the department regardless of criminal prosecution.
- B. The department may impose any of the following sanctions, singly or in combination, when it finds the respondent in violation or in noncompliance of the Code of Virginia or of this chapter:
 - 1. Letter of reprimand or censure;
 - 2. Probation for any period of time;
 - 3. Suspension of license, registration, certification, or approval granted, for any period of time;
 - 4. Revocation;
 - 5. Refusal to issue, renew or reinstate a license, registration, certification or approval;
 - 6. Fine not to exceed \$2,500 per violation as long as the respondent was not criminally prosecuted.
 - 7. Remedial Training
- C. The department may conduct hearings and issue cease and desist orders to persons who engage in activities prohibited by this chapter but do not hold a valid license, certification or registration. Any person in violation of a cease and desist order entered by the department shall be subject to all of the remedies provided by law and, in addition, shall be subject to a civil penalty payable to the party injured by the violation.
- D. The director may summarily suspend a license, certification or registration under this chapter without a hearing, simultaneously with the filing of a formal complaint and notice for a hearing, if the director finds that the continued operations of the licensee or registrant would constitute a life-threatening situation, or has resulted in personal injury or loss to the public or to a consumer, or which may result in imminent harm, personal injury or loss.
- E. All proceedings pursuant to this section are matters of public record and shall be preserved. The department may publish a list of the names and addresses of all persons, licensees, firms, registrants, training schools, school directors, compliance agents and licensed firms whose conduct and activities are subject to this chapter and have been sanctioned or denied licensure, registration, certification or approval.

6 VAC 20-171-510. Fines, administrative and investigative costs.

- A. The department may recover costs of any investigation and adjudication of any violations of the Code of Virginia or regulations which result in a sanction, including fine, probation, suspension, revocation or denial of any license, certification or registration. Such costs shall be in addition to any monetary penalty that may be imposed.
- B. All monetary penalties imposed as a sanction shall be deposited into the state treasury to the credit of the State Literary Fund.

ARTICLE 3. Adjudication

6 VAC 20-171-520. Hearing process.

- A. Following a preliminary investigative process, the department may initiate action to resolve the complaint through an informal fact-finding conference or formal hearing as established in this chapter. Pursuant to the authority conferred in § 9.1-141 C 6 of the Code of Virginia and in accordance with the procedures set forth by the Administrative Process Act and the procedures prescribed herein, the department is empowered to receive, review, investigate and adjudicate complaints concerning the conduct of any person whose activities are regulated by the board. The board will hear and act upon appeals arising from decisions made by the director. In all case decisions, the Criminal Justice Services Board shall be the final agency authority.

6 VAC 20-171-530. Informal fact-finding conference.

- A. The purpose of an informal fact-finding conference is to resolve allegations through informal consultation and negotiation. Informal fact-finding conferences shall be conducted in accordance with § 2.2-4019 of the Code of Virginia. The respondent, the person against whom the complaint is filed, may appeal the decision of an informal fact-finding conference and request a formal hearing, provided that written notification is given to the department within 30 days of the date the informal fact-finding decision notice was served, or the date it was mailed to the respondent, whichever occurred first. In the event the informal fact-finding decision was served by mail, three days shall be added to that period.

6 VAC 20-171-540. Formal hearing.

- A. Formal hearing proceedings may be initiated in any case in which the basic laws provide expressly for a case decision, or in any case to the extent the informal fact-finding conference has not been conducted or an appeal thereto has been timely received. Formal hearings shall be conducted in accordance with § 2.2-4020 of the Code of Virginia. The findings and decision of the director resulting from a formal hearing may be appealed to the board.
- B. After a formal hearing pursuant to § 2.2-4020 of the Code of Virginia wherein a sanction is imposed to fine, or to suspend, revoke or deny issuance or renewal of any license, registration, certification or approval, the department may assess the holder thereof the cost of conducting such hearing when the department has final authority to grant such license, registration, certification or approval, unless the department determines that the offense was inadvertent or done in good faith belief that such act did not violate a statute or regulation. The cost shall be limited to (i) the reasonable hourly rate for the hearing officer and (ii) the actual cost of recording the proceedings. This assessment shall be in addition to any fine imposed by sanctions.

6 VAC 20-171-550. Appeals.

- A. The findings and the decision of the director may be appealed to the board provided that written notification is given to the attention of the Director, Department of Criminal Justice Services, 805 East Broad Street, Richmond, Virginia 23219, within 30 days following the date notification of the hearing decision was served, or the date it was mailed to the respondent, whichever occurred first. In the event the hearing decision is served by mail, three days shall be added to that period. (Rule 2A:2 of Rules of the Virginia Supreme Court.)

6 VAC 20-171-560. Court review; appeal of final agency order.

- A. The agency's final administrative decision (final agency orders) may be appealed. Any person affected by, and claiming the unlawfulness of the agency's final case decision, shall have the right to direct review thereof by an appropriate and timely court action. Such appeal actions shall be initiated in the circuit court of jurisdiction in which the party applying for review resides; save, if such party is not a resident of Virginia, the venue shall be in the city of Richmond, Virginia.
- B. Notification shall be given to the attention of the Director, Department of Criminal Justice Services, 805 East Broad Street, Richmond, Virginia 23219, in writing within 30 days of the date notification of the board decision was served, or the date it was mailed to the respondent, whichever occurred first. In the event the board decision was served by mail, three days shall be added to that period. (Rule 2A:2 of Rules of the Virginia Supreme Court.)
- C. During all judicial proceedings incidental to such disciplinary action, the sanctions imposed by the board shall remain in effect, unless the court issues a stay of the order.